



Massachusetts Department of Public Health

PROPOSED REVISIONS TO 105 CMR 665.000: MINIMUM STANDARDS FOR RETAIL SALE OF TOBACCO AND ELECTRONIC NICOTINE DELIVERY SYSTEMS

Lea Susan Ojamaa, Deputy Director
Ben Kingston, Policy Director
Bureau of Community Health and Prevention

Sophia A. Apostola, Deputy General Counsel
Office of General Counsel

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105 CMR 665.000, Minimum Standards for Retail Sale of Tobacco Products and Electronic Nicotine Delivery Systems

- On November 27, 2019, Governor Baker signed into law An Act Modernizing Tobacco Control (“Act”), which provides DPH with additional regulatory authority to regulate minors’ access to tobacco products and all ages’ access to electronic nicotine delivery systems (ENDS). Some sections of the act took effect immediately and some go into effect on June 1, 2020.
- The department promulgated regulations on an emergency basis to set forth standards for the retail sale of electronic nicotine delivery systems (ENDS) regulations in order to implement those sections that became effective immediately. Final approval of the emergency regulation was done by Public Health Council on February 12, 2020.
- Revisions are now being proposed to address the sections of the Act that will go into effect on June 1, 2020.

Proposed Amendment - 105 CMR 665.005: Definitions

Flavored Tobacco Product means any tobacco product, or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a Flavored Tobacco Product .

Tobacco Product Flavor Enhancer means any product designed, manufactured, produced, marketed or sold to produce a characterizing flavor when added to any tobacco product.

Proposed Amendment - 105 CMR 665.010: Sale of Tobacco Products and Electronic Nicotine Delivery Systems

- Restricts the sale of all flavored tobacco products to smoking bars
- Requires non-age restricted retailers to obtain nicotine disclosure documentation from manufacturers prior to selling electronic nicotine products. Retailers may obtain the documentation from the distributor, provided the distributor obtained it from the manufacturer. The regulation will also require the documentation be in a form and manner specified by the department.
- Requires all tobacco retailers except smoking bars obtain documentation indicating each tobacco product for sale in the establishment is unflavored.

Proposed Amendment - 105 CMR 665.017: Advertising

- Prohibit tobacco product advertisements viewable from the exterior of any retail establishment located within 500 feet of a public or private school.

Where and What Tobacco Products Can Be Sold in Massachusetts per 105 CMR 665 as of 6/1/2020

Product	Non-age restricted retail establishments (e.g., convenience stores/gas stations, liquor stores)	Adult-Only Tobacco Retail Store (21+)	Smoking Bars (21+)
UNFLAVORED cigarettes, cigars, and other tobacco products	√	√	√
FLAVORED cigarettes, cigars, and other tobacco products			√
UNFLAVORED e-cigarettes with nicotine content 35 mg/mL or less	√	√	√
UNFLAVORED e-cigarettes with nicotine content over 35 mg/ML		√	√
FLAVORED e-cigarettes			√*
Tobacco product flavor enhancers			√*

√* For on-site consumption only

Next Steps

- Following this initial presentation, staff will hold a public hearing and comment period.
- Staff will review public comments and request approval of the proposed amendments at a subsequent meeting of the Public Health Council.
- Outreach and education with retailers and general population to raise awareness and prepare for upcoming changes.
- More information on the law and regulation can be found here:
www.mass.gov/newtobaccolaw

Cessation Support

- **Massachusetts Smokers' Helpline at 1-800-QUIT-NOW** (1-800-784-8669) *provides counseling and NRT*
- **This is Quitting** powered by **truth®** is a free and confidential texting program for young people who vape. Young people can text "VapeFreeMass" to 88709.
- **My Life, My Quit™** has youth coach specialists trained to help young people by phone or text. Young people can call or text "Start My Quit" to 855-891-9989 for free and confidential help or visit mylifemyquit.com to sign up online.